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ROOM NO.

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REMARKS:

Per your request.

FROM:

Ellen M.

ROOM NO.

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EXTENSION

SUMMARY OF THE SENATE'S EARLY RETIREMENT PROPOSAL

30 JULY 1986

"FEDERAL EMPLOYEES' OPTIONAL EARLY RETIREMENT ACT OF 1986"

1. There would be a 90-day period beginning 30 days after the enactment of this Act during which Federal employees who meet one of the following age and service requirements would be entitled to an annuity upon separation:

- a. any age and 25 years of service,
- b. age 50 and 20 years of service,
- c. age 55 and 15 years of service, or
- d. age 57 and 5 years of service.

The annuity would be reduced by 2 percent for each year that the employee is under the age of 55.

2. This option would extend to CIARDS participants. However, law enforcement officers, firefighters, and air traffic controllers in a non-supervisory or non-administrative position would be excluded.

3. Employees serving in the Executive Branch in an "exempt" occupational category, project, or location (as designated by the President) would not be eligible for early retirement. However, only up to 25 percent of the eligible employees in an Executive agency would be precluded from early retirement by the President's exemption authority.

4. In addition, the head of an Executive agency would be granted the authority to designate an employee as "essential" for the continuous progress of a critical project or the continuous performance of a critical responsibility. Such a designation would be effective for a period not to exceed six months. Affected employees would not be eligible for early retirement until the expiration of their designation as "essential."

5. A "hiring limitation period" within the Executive Branch would begin 30 days after the date of enactment of this Act and would terminate at the end of the third fiscal year beginning on or after the first day of the period. Unless the President exercised his waiver authority with respect to positions essential for the performance of an Executive responsibility or positions where the costs would not exceed the estimated user fees that would be collected, employees who retired early would not be replaced during the "hiring limitation period."

6. The Comptroller General of the United States would be authorized to audit the records of an agency to ensure that savings resulting from the Act were not obligated or expended for any purpose.

7. The Director of the Office of Personnel Management would be required to report the following items to Congress:

a. the number of early retirements by agency, age group, and grade;

b. the number and description of "exempt" occupational categories, projects, and locations and the reasons for so designating them;

c. the number of "essential" employees and the reasons for so designating them; and

d. the number of employees appointed under the President's waiver authority and the reasons for those appointments.

Agencies would be required to furnish the Director of OPM with the information necessary to prepare this report.

8. There was not enough support yesterday within the Senate's Governmental Affairs Committee to include the early retirement proposal as part of the budget reconciliation plan. Therefore, the proposed Act will have to be raised as separate legislation or as an attachment to some other legislation.

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1 TITLE VII--GOVERNMENTAL AFFAIRS

2 Part A--Optional Early Retirement Program

3 SEC. 701. SHORT TITLE.

4 This part may be cited as the "Federal Employees'
5 Optional Early Retirement Act of 1986".

6 SEC. 702. PURPOSES.

7 The purposes of this part are--

8 (1) to reduce Federal Government civilian payrolls in
9 an orderly and voluntary manner;

10 (2) to accommodate the personal plans of certain
11 Federal Government employees who desire to retire but
12 have not satisfied the applicable age and service
13 requirements;

14 (3) to allow current Federal Government employees to
15 retire early in order to avoid possible adverse effects
16 of Federal budgetary conditions; and

17 (4) to provide increased job protection and career
18 opportunities for Federal Government employees,
19 especially women, members of minority groups, and young
20 workers.

21 SEC. 703. TEMPORARY VOLUNTARY EARLY RETIREMENT AUTHORITY.

22 Section 8336 of title 5, United States Code, is amended--

23 (1) by redesignating subsection (m) as subsection
24 (n); and

25 (2) by inserting after subsection (l) the following

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1 new subsection (m):

2 "(m)(1) Except as provided in paragraph (2) of this
3 subsection, an employee who--

4 "(A) during the 90-day period beginning 30 days
5 after the date of the enactment of the Federal Employees'
6 Optional Early Retirement Act of 1986, is separated from
7 the service, except by removal for cause on charges of
8 misconduct or delinquency--

9 "(i) after completing 25 years of service;

10 "(ii) after becoming 50 years of age and
11 completing 20 years of service;

12 "(iii) after becoming 55 years of age and
13 completing 15 years of service; or

14 "(iv) after becoming 57 years of age and
15 completing 5 years of service; and

16 "(B) is not entitled to an annuity under section
17 8337 of this title or subsection (a), (b), (d), (f), (h),
18 or (j) of this section,
19 is entitled to an annuity.

20 "(2) Paragraph (1) of this subsection shall not apply to
21 a bankruptcy judge, a judge of the United States Court of
22 Military Appeals, or any law enforcement officer,
23 firefighter, or air traffic controller who is not in a
24 supervisory or administrative position, as determined by the
25 Director of the Office of Personnel Management."

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1 SEC. 704. COMPUTATION OF ANNUITY.

2 The first sentence of section 8339(h) of title 5, United
3 States Code, is amended by striking out ``or (j)'' and
4 inserting in lieu thereof `` , (j), or (m)''.

5 SEC. 705. APPLICATION OF AMENDMENTS TO OTHER FEDERAL
6 GOVERNMENT RETIREMENT SYSTEMS.

7 The President shall extend the application of the
8 amendments made by sections 703 and 704--

9 (1) to participants in the Central Intelligence
10 Agency Retirement and Disability System and their
11 survivors under section 292 of the Central Intelligence
12 Agency Retirement Act of 1964 for Certain Employees (50
13 U.S.C. 403 note);

14 (2) to participants in the Foreign Service Retirement
15 and Disability System and their survivors under section
16 827 of the Foreign Service Act of 1980 (94 Stat. 2124; 22
17 U.S.C. 4067); and

18 (3) if determined appropriate by the President, in
19 like manner to employees of the Executive branch who are
20 participants in any other Federal Government retirement
21 system and their survivors.

22 SEC. 706. EXEMPTION FOR ESSENTIAL OCCUPATIONAL CATEGORIES.

23 (a) In General.--An officer or employee in the Executive
24 branch retiring under section 8336(m) of title 5, United
25 States Code (as added by section 703(2) of this Act), or

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1 pursuant to section 705 of this Act is not entitled to an
2 annuity under or pursuant to such section if, immediately
3 before the retirement, the officer or employee--

4 (1) is serving in a position in an exempt
5 occupational category,

6 (2) is working on an exempt project, or

7 (3) is serving in a position in an exempt location,
8 designated under subsection (b).

9 (b) Exemption Authority.--(1) The President or his
10 designee, except in the case of officers and employees of the
11 United States Postal Service and the Postal Rate Commission,
12 may, for the purposes of this section, designate--

13 (A) as an exempt occupational category any,
14 occupational category in an Executive agency that is
15 essential for the continuous performance of a critical
16 mission of the Executive agency;

17 (B) as an exempt project any project carried out by
18 an Executive agency that is an essential project in the
19 interests of the Federal Government; and

20 (C) as an exempt location any location at which a
21 responsibility of an Executive agency is carried out with due
22 regard for the undesirability of such location, and the
23 difficulty to fill employee vacancies at the location by
24 voluntary transfers of other employees.

25 (2) In the case of officers and employees of the United

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1 States Postal Service and the Postal Rate Commission, the
2 Postmaster General of the United States may make the
3 designations authorized in paragraph (1).

4 (c) Limitations on Authority.--(1) ~~A designation under~~
5 ~~subsection (b)~~ shall be effective for the purposes of this
6 section ~~only if it is made in writing not later than 29 days~~
7 ~~after the date of the enactment of this Act.~~

8 (2)(A) The authority provided in subsection ~~(B)~~ may not
9 ~~be exercised~~ in a manner that ~~precludes more than 25 percent~~
10 ~~of the eligible officers and employees in an Executive agency~~
11 from being entitled to an annuity under section 8336(m) of
12 title 5, United States Code, or pursuant to section 705 of
13 this Act.

14 (B) For the purpose of subparagraph (A), the term
15 "eligible officers and employees" means the officers and
16 employees of the Federal Government who, without regard to
17 subsection (a), would be entitled, upon separation from
18 Federal Government employment, to an annuity under section
19 8336(m) of title 5, United States Code, or pursuant to
20 section 705 of this Act.

21 (d) Definition.--For the purposes of this section, the
22 term "Executive agency" has the same meaning as provided in
23 section 105 of title 5, United States Code, and includes--

24 (1) the military departments specified in section 102
25 of such title;

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1 (2) the United States Postal Service; and

2 (3) the Postal Rate Commission.

3 SEC. 707. HOLDOVER OF ESSENTIAL EMPLOYEES.

4 (a) In General.--(1) An officer or employee in the
5 Executive branch is not entitled to an annuity under section
6 8336(m) of title 5, United States Code (as added by section
7 703(2) of this Act), or pursuant to section 705 of this Act
8 if, immediately before separating from Federal Government
9 employment, the officer or employee is serving as an
10 essential employee designated under subsection (b) of this
11 section.

12 (2) An officer or employee of an Executive agency who--

13 (A) separates from Federal Government employment
14 immediately upon the termination of a designation under
15 subsection (b); and

16 (B) during the 90-day period provided in section
17 8336(m) of title 5, United States Code, or pursuant to
18 section 705 of this Act, as the case may be, has given
19 such Executive agency appropriate notice of his intention
20 to separate from Federal Government employment under or
21 pursuant to such section,
22 shall be entitled to an annuity under or pursuant to such
23 section notwithstanding that the separation becomes effective
24 after the expiration of such 90-day period.

25 (b) Holdover Authority. -- The head of an Executive agency

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1 may designate, for the purposes of this section, any officer
2 or employee in such Executive agency as essential for (1) the
3 continuous progress of a critical project under the
4 responsibility of the Executive agency, or (2) the continuous
5 performance of a critical responsibility assigned to such
6 officer or employee by the Executive agency.

7 (c) Limitation on Authority.--A designation under
8 subsection (b) may not be effective for more than 6 months.

9 (d) Definition.--For the purposes of this section, the
10 term "Executive agency" has the same meaning as provided in
11 section 105 of title 5, United States Code, and includes--

12 (1) the military departments specified in section 102
13 of such title;

14 (2) the United States Postal Service; and

15 (3) the Postal Rate Commission.

16 SEC. 708. LIMITATION ON REPLACEMENT OF RETIREES.

17 (a) In General.--(1) Notwithstanding any other provision
18 of law, except as provided in subsection (b), (c), (d), (e),
19 or (f), an appointment may not be made to a position of
20 civilian employment in the Executive branch on any day during
21 the hiring limitation period, unless the full-time employee
22 equivalent of the total number of civilian employees in the
23 Executive branch (other than the United States Postal Service
24 and the Postal Rate Commission) after such appointment on
25 such day does not exceed the maximum authorized full-time

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1 employee equivalent number determined for such day, as
2 provided in paragraph (2)(A).

3 (2) For the purposes of paragraph (1)--

4 (A) the term "maximum authorized full-time employee
5 equivalent number" means--

6 (i) with respect to any day during the 90-day
7 period provided in section 8336(m) of title 5, United
8 States Code, or pursuant to section 705 of this Act,
9 the excess of--

10 (I) the ~~full-time employee equivalent number~~
11 that describes the total number of civilian
12 employees employed in positions in the Executive
13 branch (other than the United States Postal
14 Service and the Postal Rate Commission) ~~on the~~
15 ~~date 29 days after the date of the enactment of~~
16 ~~this Act~~, over

17 (II) the full-time employee equivalent number
18 that describes the total number of such employees
19 who have retired during such period (on or before
20 such day) entitled to an annuity under subchapter
21 III of chapter 83 of title 5, United States Code,
22 or any other Federal Government retirement system
23 for officers and employees of the Federal
24 Government; and

25 (ii) with respect to any other day during the

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1 hiring limitation period, the excess of--

2 (I) the full-time employee equivalent number
3 determined under subclause (1)(I), over

4 (II) the full-time employee equivalent number
5 that describes the total number of employees
6 referred to in subclause (1)(I) who, during the
7 90-day period referred to in subclause (1),
8 retired entitled to an annuity under subchapter
9 III of chapter 83 of title 5, United States Code,
10 or any other Federal Government retirement system
11 for officers and employees of the Federal
12 Government; and

13 (B) the term "hiring limitation period" means the
14 period beginning on the date 30 days after the date of
15 the enactment of this Act and ending at the end of the
16 third fiscal year which begins on or after the first day
17 of such period.

18 (b) Waiver.--(1) The President or his designee may waive
19 the application of subsection (a) in the case of a position
20 or a category of positions in the Executive branch if the
21 President (or his designee) determines that--

22 (A) the position or positions are essential for the
23 performance of an Executive responsibility; or

24 (B) the estimated aggregate cost of such position or
25 positions during the hiring limitation period described

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1 in subsection (a)(2)(B) does not exceed the estimated
2 aggregate amount of user fees that will be collected by
3 the Federal Government for services performed under a
4 Federal Government program or programs during such period
5 by an employee in such position or employees in such
6 positions.

7 (2) The President (or his designee) may not exercise the
8 waiver authority provided in paragraph (1) in a manner that
9 results in increased pay and other personnel costs in any
10 Executive agency that exceed the amount of the cost savings
11 which result from the implementation of this part and the
12 amendments made by this part in the case of such Executive
13 agency.

14 (c) Inapplicability of Limitation to the Postal Service
15 and the Postal Rate Commission.--Subsection (a) does not
16 apply to positions in the United States Postal Service or
17 under the Postal Rate Commission.

18 (d) Inapplicability of Limitation to Certain
19 Reinstatements.--Subsection (a) does not apply in the case of
20 an individual who is reinstated to a position of employment
21 the individual formerly held in the Executive branch by order
22 of a court of the United States having jurisdiction to issue
23 such order or by reason of an action of the Merit Systems
24 Protection Board or the Special Counsel of the Merit Systems
25 Protection Board authorized by law.

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1 (e) Inapplicability of Limitation to Certain Transfers.--
2 Subsection (a) does not prohibit the transfer of employees in
3 the Executive branch for the purpose of filling a vacancy in
4 an Executive branch position.

5 (f) Inapplicability of Limitation During a Period of War
6 or National Emergency.--Subsection (a) shall not apply during
7 a period of war declared by the Congress or a period of
8 national emergency declared by the Congress or the President.

9 (g) Limitation on Procurement of Personal Services.--The
10 President shall take appropriate action to ensure that there
11 is no increase in the procurement of personal services by
12 contract by reason of the enactment of this section except in
13 cases in which it is to the financial advantage of the
14 Federal Government to increase the procurement of such
15 services.

16 (h) Definition.--For the purposes of this section, the
17 term "employee" has the same meaning as provided in section
18 2105 of title 5, United States Code.

19 SEC. 709. REGULATIONS.

20 (a) In General.--Except as provided in subsection (b),
21 the President or his designee may prescribe regulations to
22 carry out sections 706, 707, and 708.

23 (b) Postal Service and Postal Rate Commission
24 Employees.--The Postmaster General of the United States may
25 prescribe regulations to carry out sections 706 and 707 in

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1 the case of officers and employees of the United States
2 Postal Service and the Postal Rate Commission.

3 SEC. 710. LIMITATION ON USE OF SAVINGS.

4 (a) In General.--(1) None of the budget authority and
5 outlays saved in any fiscal year by reason of the reduced pay
6 and other personnel costs resulting from the optional early
7 retirement program and the limitation on replacement of
8 retirees provided in this part and the amendments made by
9 this part may be obligated or expended for any purpose.

10 (2) The total amount of budget authority and outlays
11 saved in any fiscal year (as described in paragraph (1))
12 shall be credited against any amount of pay and other
13 personnel costs required to be sequestered in such fiscal
14 year under the Balanced Budget and Emergency Deficit Control
15 Act of 1985 (Public Law 99-177).

16 (b) Audits.--The Comptroller General of the United States
17 may audit the records of any agency of the Federal Government
18 to determine the level of compliance with the requirements of
19 subsection (a).

20 (c) Notice of Noncompliance.--The Comptroller General of
21 the United States shall notify Congress, in writing, of any
22 noncompliance with the requirements of subsection (a).

23 SEC. 711. PROGRAM REPORT.

24 (a) In General.--Not later than 13 months after the date
25 of the enactment of this Act, the Director of the Office of

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1 Personnel Management shall transmit to Congress a report
2 containing an evaluation of the optional early retirement
3 program and the limitation on replacement of retirees
4 provided in this part.

5 (b) Contents of Report.--The report under subsection (a)
6 shall include the following matters:

7 (1) The number of employees who have retired under
8 the optional early retirement program, stated by
9 employing agency, by age group of the retirees, and by
10 grade or other position classification of the retirees.

11 (2) The number and description of the exempt
12 occupational categories, projects, and locations
13 designated under section 706(b) and the reasons such
14 categories, projects, and locations have been so
15 designated.

16 (3) The number of employees who have been designated
17 as essential employees under section 707(b) and the
18 reasons such employees have been so designated.

19 (4) The number of employees appointed under the
20 waiver authority provided in section 708(b) (stated in
21 full-time employee equivalent numbers) and the reasons
22 for the appointments.

23 (5) The amount of the savings in pay and other
24 personnel costs that have resulted, before the date of
25 the report, from the implementation of this part and the

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1 amendments made by this part.

2 (c) Administrative Provision.--The Director of the Office
3 of Personnel Management may obtain from any agency of the
4 Federal Government such information as the Director
5 determines necessary to prepare the report required by
6 subsection (a).

7 SEC. 712. REVISIONS IN BUDGET ALLOCATIONS AND AGGREGATES.

8 (a) Reports by Committees on the Budget.--Upon the
9 enactment of this Act, the Committees on the Budget of the
10 Senate and the House of Representatives shall report to their
11 respective Houses revised allocations, pursuant to section
12 302(a) of the Congressional Budget Act of 1974, and revised
13 budget aggregates to carry out this part and the amendments
14 made by this part.

15 (b) Reports by Other Committees of Congress.--Upon the
16 reporting of revised allocations under subsection (a), the
17 appropriate committees of the Senate and the House of
18 Representatives shall report revised allocations, pursuant to
19 section 302(b) of the Congressional Budget Act of 1974, to
20 carry out this part and the amendments made by this part.

21 (c) Treatment of Reported Revisions.--Revised allocations
22 and budget aggregates reported under this section shall be
23 considered for the purposes of the Congressional Budget Act
24 of 1974 as aggregates contained in and allocations pursuant
25 to S. Con. Res. 120 (99th Congress, Second Session), the

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1 concurrent resolution on the budget for fiscal year 1987.